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ALEXANDER L. STEVAS,
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No. 80-689

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

GARY E. WIDMAR, *et al.*,
Petitioners,

v.

CLARK VINCENT, *et al.*,
Respondents.

On Writ of Certiorari to the Eighth Circuit Court of Appeals of the United States

JOINT APPENDIX

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Respondents.

On Writ of Certiorari to the Eighth Circuit Court
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JOINT APPENDIX

RELEVANT DOCKET ENTRIES
of the United States District Court
for the Western District of Missouri

Date	
1977	
October 13	Complaint Filed
October 13	Motion for Preliminary Injunction Together with Suggestions in Support Thereof Filed.
November 03	Answer Filed

1978	
April 13	Stipulation of Fact Filed
April 27	Order on Pretrial Conference
June 01	Supplemental Stipulation of Fact Filed
July 18	First Amended Complaint Filed
July 31	Answer to First Amended Complaint Filed
1979	
December 11	Memorandum Opinion and Orders Filed
1980	
January 07	Notice of Appeal Filed
January 09	Appeal Bond Filed
January 22	Designation of Record and Statement of Issues on Appeal Filed

RELEVANT DOCKET ENTRIES
of the Eighth Circuit Court of Appeals

Date	
1980	
January 14	Appeal Docketed
May 21	Argued and Submitted Judges Heaney, Gibson & Stephenson
August 4	Opinion and Judgment Entered on Opinion
August 13	Petition for Re-Hearing En Banc Filed

September 02	Appellants' Motion for Preliminary Injunction or in the Alternative for Immediate Issuance of the Mandate, with suggestions in support of Filed.
September 10	Appellants' Motion to Withdraw Motion for Preliminary Injunction or in the Alternative for Immediate Issuance of the Mandate Filed.
September 17	Appellants' Motion to Withdraw Motion for Preliminary Injunction or Immediate Issuance of Mandate Granted.
September 19	Order Denying Appellees' Petition for Rehearing En Banc with Dissenting Opinion Entered
September 22	Appellees' Motion for Stay of Mandate Filed
September 30	Order Staying Issuance of Mandate Pending Certiorari Proceedings Entered
1981	
February 25	Order of Supreme Court dated February 23, 1981 granting Certiorari Entered

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

FLORIAN FREDERICK CHESS,
Kansas City, Missouri,

DALE RHOTON,
Kansas City, Missouri,

RONALD BARNES,
Kansas City, Missouri,

GLENN P. GARRISON,
Kansas City, Missouri,

KATHLEEN ANNE AGUIRRE,
Kansas City, Missouri,

DOUGLAS NEEF,
Kansas City, Missouri,

CLARK VINCENT
Kansas City, Missouri,

JAMES S. COLMER, JR.
Kansas City, Missouri,

DAWN B. WALLACE,
Kansas City, Missouri,

JOHATHAN WILLIAMS,
Kansas City, Missouri,

MALINDA ANN MCMURRY
Kansas City, Missouri,

and

KATHERINE CYMAN,
Kansas City, Missouri,

Plaintiffs,

No. 77-0756CV2

vs.

GARY E. WIDMAR, Dean of
Students, University of
Missouri—Kansas City,

THE BOARD OF CURATORS OF
THE UNIVERSITY OF MISSOURI,

BARBARA BERKMEYER
15278 Spring Run
Chesterfield, Missouri,

DANIEL L. BRENNER
1005 Grand Avenue
Kansas City, Missouri,

ROBERT A. DEMPSTER
226 N. Kingshighway
Sikeston, Missouri,

WILLIAM T. DOAK
Route #2
Vandalia, Missouri,

C. R. JOHNSTON
1616 Missouri Boulevard
Jefferson City, Missouri,

MARIAN OLDHAM
5227 Westminister Place
St. Louis, Missouri,

WALLACE R. STACEY, M.D.
3407 Shady Bend Drive
Independence, Missouri,

REX Z. WILLIAMS
504 E. 5th Street
Rolla, Missouri,

and

VAN O. WILLIAMS
The National Bank
320 Armour Road
North Kansas City, Missouri,
Defendants,

COMPLAINT

Comes now plaintiffs herein and for their complaint against defendants state as follows:

1. This action is brought pursuant to Title 28, United States Code, Section 2201, and Title 42, United States Code, Section 1983, for the purpose of having declared and adjudged unconstitutional, and to enjoin the enforcement of, certain regulations of the University of Missouri promulgated by the Board of Curators, to-wit: the regulations numbered 4.0314.0107 and 4.0314.0108, which prohibit the use of university facilities by students for purposes of either "religious teaching" or "religious worship." A copy of the exact language of these regulations is attached hereto as Exhibit A and made a part hereof by reference.

2. The jurisdiction of this Court is invoked pursuant to the provisions of Title 28, United States Code, Section 1343 (3), this being a suit in equity which is authorized by law, Title 42, United States Code, Section 1983, to be brought to redress the deprivation under color of state law of rights, privileges, and immunities secured by the Constitution and laws of the United States. The rights here sought to be redressed are rights guaranteed by the Free Exercise and the Freedom of Expression Clauses of the First Amendment, and by the Due Process and Equal Protection Clauses of the Fourteenth Amendment, to the Constitution of the United States, as hereinafter more fully appears.

3. Venue is proper in this judicial district pursuant to the provisions of Title 28, United States Code, Section 1391(b) in that this is a civil action wherein jurisdiction is not founded solely on diversity of citizenship; the claim arose in this judicial district; and defendant Dean Widmar resides, and defendant members of the Board of Curators maintain their office, in this district.

4. The plaintiffs are individual students enrolled at the University of Missouri—Kansas City (hereafter "UMKC") involved in a recognized student organization by the name of Cornerstone. Plaintiffs, as a group, seek enforcement of the right to use university facilities as a place in which to hold meetings for the religious purposes of the group.

5. Defendant Gary E. Widmar is the Dean of Students at UMKC, his office being located in Scofield Hall near 5100 Rockhill Road, Kansas City, Missouri.

6. The defendant Board of Curators is an official body established by the State of Missouri for the government of the University and its affairs. The office of the Board of Curators is located in Columbia, Missouri. Service of process upon the defendant Board of Curators may be obtained by serving a copy of the summons and petition upon the President of the Board of Curators, to-wit: Mr. Van Williams, President, National Bank in North Kansas City, 320 Armour Road, North Kansas City, Missouri.

7. Defendants Berkmeyer, Brenner, Dempster, Doak, Johnston, Oldham, Stacey, Williams, and Williams are individual members of the Board of Curators, duly constituted pursuant to law.

8. Although student religious groups had been using the facilities of the University of Missouri, including the Student Union facilities, as a meeting place for meetings which included religious discussion, teaching, and prayer, for many years, the Board of Curators, acting under color of state law, promulgated the regulations set out in Exhibit A in 1972.

9. On or about January 5, 1977, the students involved in Cornerstone submitted a Request for Use of University Facilities (UMKC Form No. 740) pursuant to established procedures of the University, requesting the use of facilities for their meetings during the semester. The facilities were desired as a place in which to hold meetings which usually include prayer and discussion of religious topics. The group had obtained permission to use such facilities, and had used them in this manner, in the past. In February, Cornerstone was advised, through the University Counsel's Office and defendant Dean Widmar, that such meetings could not be permitted in view of the fact that worship was "an important part of the general atmosphere of the meetings" and that such meetings would be in violation of university regulations.

10. The provisions of the said regulations pursuant to which the University has acted in denying the use of facilities to the plaintiffs are in violation of the Constitution and laws of the United States in the following respects:

A. The regulations place an impermissible and undue burden on the free exercise of religion and on freedom of expression in violation of the First Amendment of the Constitution of the United States, as applied to the states through the Fourteenth Amendment, in that they fail to make a reasonable accommodation of the religious needs of the students by forcing the students to hold such meetings away from the grounds of the University. This, in effect, destroys any benefit derived by Cornerstone from being a recognized student organization, and thereby effectively nullifies the official recognition of the organization, and makes it extremely difficult for students interested in these activities to meet as a group.

B. The regulations in question constitute, under the circumstances here present, active hostility against and unlawful discrimination against religion, and an undue burden on freedom of expression in violation of the First

Amendment, as applied to the states through the Fourteenth Amendment to the Constitution of the United States, in that these regulations single out religious expression from among all other types of expression, and exclude such religious expression from the grounds of the University, while permitting students to gather for purposes of other types of expression. Such discrimination is unlawful in that there is no valid and compelling state interest being protected by the University in excluding such religious expression from the grounds of the University.

C. The regulations violate the freedom of expression provision of the First Amendment, as applied to the states through the Fourteenth Amendment, in that the enforcement of the regulations will tend to lead to unlawful censorship of the meetings of religious groups by the University in violation of the First and Fourteenth Amendments. Such censorship would tend to be employed by the University in the instances where the University seeks to determine whether or not elements of the "religious teaching" or "religious worship" are present at such meetings.

D. The regulations in question are impermissibly and unconstitutionally vague and overbroad in violation of the Fourteenth Amendment to the Constitution of the United States in the following particulars:

1. The regulations do not define "religious teaching," nor do they make clear when religious subjects may be discussed and when they may not; and

2. The regulations do not define "religious worship" not do they explain why prayer, which is generally considered one form of "worship" is permitted, but "an atmosphere of worship" such as that occurring at the meetings of Cornerstone, is not permitted.

3. The language goes so far as to preclude a group from holding a meeting where worship is "an important part of the general atmosphere" even though the meeting is not essentially a "worship meeting"; and

4. The ban against "religious teaching" goes so far as to preclude the discussion of religion as it bears on such subjects as the origin of man, the nature of man, and the future of man, which subjects are an integral part of the questions which students, in the academic atmosphere of the University, are entitled to discuss, pursue, and even to attempt to persuade others to their point of view; and

5. The regulations go beyond the requirements of the Missouri Constitution related to separation of church and state, as well as beyond the requirements of the Establishment Clause of the First Amendment of the Constitution of the United States, in that these regulations go beyond dealing with state establishment of, aid to, and undue entanglement with, religion; and instead these regulations deal with the question of what private individuals may discuss and do among themselves, without the question of state aid of sponsorship being involved. Indeed, the language of the regulations as applied in this instance, even go so far as to preclude a particular mental attitude (an attitude of worship) from the grounds of the University.

E. The regulations in question are unduly arbitary and capricious and therefore deny plaintiffs' equal protection of the law and deprive plaintiffs of liberty without due process of law, in violation of the Fourteenth Amendment to the Constitution of the United States, in that while it extends to student groups the right to use any chapels on the grounds of the University for religious purposes (although on an irregular and limited basis), the University has failed,

at the UMKC campus, to provide or designate any such chapel. Further, even if there were such a chapel on the grounds at UMKC, the relegation of religious teaching and religious worship to a chapel, as opposed to allowing these matters the same treatment as other types of expression, constitutes an unlawful discrimination against and an impermissible attitude of hostility against religion in violation of the First Amendment, as applied to the states through the Fourteenth Amendment of the Constitution of the United States, in that it classifies religion as something which, in the generally open academic atmosphere of a university, must be confined only to chapels.

F. In addition to unlawfully interfering with the free exercise of religion, the regulations in question also violate the establishment provision of the First Amendment to the Constitution of the United States, as applied to the states through the Fourteenth Amendment, in that the heavy-handed banning from the campus of all those matters traditionally considered "religious" through the enforcement of these regulations has the effect on the campus of establishing and promoting a religion of secularism.

11. Defendant Board of Curators, by promulgating the said regulations under color of law, and the defendant Gary Widmar, by engaging in the enforcement, execution, and administration of the provisions of said regulations under color of law, have deprived and will continue to deprive, unless restrained, the plaintiffs and others similarly situated of their rights to freedom of expression and freedom of religion under the First Amendment, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the Constitution of the United States.

12. The damage and injury done to the plaintiffs by reason of being deprived of the foregoing rights is continuing and irreparable, and there is no adequate remedy at law. Any other

remedy to which plaintiffs could be referred would be attended by such uncertainties and delays as to deny substantial relief, cause further irreparable injury, and occasion damage, vexation, and inconvenience to the plaintiffs.

WHEREFORE, plaintiffs pray that this Court:

1. Issue a preliminary injunction directing the defendant Dean Gary E. Widmar to immediately approve the application of Cornerstone for the use of University facilities, and to give notification of such to Cornerstone through the undersigned attorney for plaintiffs, and further directing Defendant Board of Curators of the University of Missouri, Dean Gary E. Widmar, and all other agents, officials, and employees of the University of Missouri from enforcing, executing, administering, or in any manner giving effect to said regulations; and

2. Adjudge and declare said regulations to be in violation of the First and Fourteenth Amendments to the Constitution of the United States and therefore unconstitutional and void; and

3. Issue a permanent injunction restraining the Board of Curators and all officials, and agents, and employees of the University from enforcing, executing, administering or in any manner giving effect to said regulations; and

4. Grant plaintiffs the costs of this action, including reasonable attorneys fees, pursuant to Title 42, United States Code, Section 1988, and such order and further relief as may be just and equitable in the premises.

/s/ James M. Smart, Jr.
Home Savings Building
1006 Grand Avenue
Kansas City, Missouri 64106
842-4280

/s/ William H. Pickett
Traders Bank Building
1125 Grand Avenue
Kansas City, Missouri 64106
471-4881

Attorneys for Plaintiffs

AFFIDAVIT

Comes now Florian Frederick Chess, of lawful age, one of the plaintiffs named herein, who, having been first duly sworn, deposes and upon his oath states that he has read the foregoing complaint and that the facts stated therein are true and correct to the best of his knowledge and belief.

/s/ Florian Frederick Chess

(Jurat omitted in printing)

Exhibit A

.0107 No University buildings or grounds (except chapels as herein provided) may be used for purposes of religious worship or religious learning by either student or non-student groups. Student congregations of local churches or of recognized denominations or sects, although not technically recognized campus groups, may use the facilities, commonly referred to as the student union or center or commons under the same regulations that apply to recognized campus organizations, provided that no University facilities may be used for purposes of religious worship or religious teaching. The general prohibition against use of University buildings and grounds for religious worship or religious teaching is a policy required, in the opinion of The Board of Curators, by the Con-

stitution and laws of the State and is not open to any other construction. No regulations shall be interpreted to forbid the offering of prayer or other appropriate recognition of religion at public functions held in University facilities. This provision does apply to such buildings as may be designated under provision of part .0106.

.0108 Regular chapels established on University grounds may be used for religious services but not for regular recurring services of any groups. Special rules and procedures shall be established for each such chapel by the Chancellor. It is specifically directed that no advantage shall be given to any religious group.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

MOTION FOR PRELIMINARY INJUNCTION TOGETHER WITH SUGGESTIONS IN SUPPORT THEREOF

Come now plaintiffs in the above cause, and, pursuant to Rule 65(a) of the Federal Rules of Civil Procedure, move the court for a preliminary injunction directing Defendant Dean Gary E. Widmar to approve the request of Cornerstone for the use of university facilities for the purpose of holding meetings in such facilities and further restraining Defendant Dean Widmar and the defendant members of the Board of Curators and the officers, agents, and employees of the University of Missouri from enforcing, executing, administering or in any manner giving effect to said regulations.

Plaintiffs further request the court fix a date for a hearing on this motion and to order defendants to show cause on that date why such a preliminary injunction should not be granted, and to fix the form and extent of the notice of such hearing to be given the defendants, and for all such other and proper relief as may seem to the court right and proper.

The suggestions in support of this motion are as follows:

1. Defendant Board of Curators, acting under color of state law, have enacted regulations which, as enforced, have, since February, 1977, denied plaintiffs their rights to freedom of expression and their rights to the free exercise of their religion under the First Amendment, as applied to the states through the Fourteenth Amendment, and have further deprived plaintiffs of the equal protection of the laws, and of due process of law, in violation of the Fourteenth Amendment of the Constitution of the United States.

2. Unless restrained, defendant members of the Board of Curators and Dean Widmar will continue to deprive plaintiffs of their rights as aforesaid.

3. Immediate and irreparable injury and loss will result to the plaintiffs by reason of the action of the defendants, as more particularly appears in the verified complaint filed herein and the attached affidavits of Jonathan Williams and Florian Frederick Chess. The plaintiffs have no adequate remedy at law.

4. If this preliminary injunction be granted, the injury, if any, to defendants herein, if final judgment be in their favor, will be inconsiderable and will not involve pecuniary loss or damage to defendants.

/s/ James M. Smart, Jr.
1006 Grand Avenue
Suite 1134
Kansas City, Missouri 64106
(816) 842-4280

/s/ William H. Pickett
Pickett & Midkiff
Traders Bank Building
1125 Grand Avenue
Kansas City, Missouri 64106
(816) 471-4881

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

AFFIDAVIT OF FLORIAN FREDERICK CHESS

Comes now Florian Frederick Chess, of lawful age, who, having been first duly sworn, deposes and upon his oath states as follows:

1. I am a student at the University of Missouri—Kansas City and I reside at 4914 Grand Avenue, Apartment 12, Kansas City, Missouri 64112. My telephone number is 753-5185.

2. I am involved in a recognized student group on the UMKC campus called Cornerstone.

3. For the last year or two we have had at any one time perhaps twenty students who participate actively in Cornerstone and form the backbone of the campus organization. There are many other students who come to meetings and get-togethers of our group less frequently, but still on a somewhat regular basis.

Students can be involved as much or as little as they desire. We do not have memberships or dues and we have very little formal organization. We have, however, in the past been one of the most, if not the most, active organization on campus.

4. We are a group of people who believe that Christianity is pertinent to everyday life—even the life of a student. We find our Christianity—which we would define as a personal relationship with a resurrected, living Savior—to be relevant to all aspects of our lives. For instance, when we make value decisions as to how we relate to people, whether or not we should be honest in taking examinations, what our attitudes should be towards sex and marriage, how we should respond to our parents and to others in authority, what we should pursue for a career—and in all of such matters, we find that our Christianity has something to say and is therefore intensely practical. We are not a denomination and we are not concerned with religious ritual and religious ceremony, but instead with the practical aspects of how Christianity and the Bible relate to every aspect of our lives.

5. Our purpose as a group is to promote a knowledge and awareness of Jesus Christ on the campus, and also, of course, to encourage one another in the faith and to grow in the grace and knowledge of the Lord Jesus Christ. To carry out these objectives we must meet together, provide a forum for our message, and have a place for interested students to meet with us.

6. We have been meeting regularly on the campus since about 1972 or 1973. We have met at different locations on campus, always with permission. Last year we met regularly at 103 Haig Hall Annex for our Saturday night meetings. We have had up to one hundred and twenty-five people at the meetings on several occasions, and frequently have had at least one hundred.

7. We also in the past have had some Bible studies on campus with permission. During the 1975 -1976 year we had a weekly study in Room 34 of the Education Building.

8. The program for our Saturday night meetings on campus consisted of Bible study and teaching, prayer, informal sharing, and singing. All are welcome to attend, and, in fact, it is our purpose to attract the uninvolved so that they too might assure themselves that the answers to life's ultimate questions rest with Jesus Christ and the Bible.

9. We have never had nor sought any official promotion or sanction as to our activities or purposes from the university administration, and we expect no more accommodation than that which is afforded other recognized student groups.

10. The prohibition against meeting on campus which began in February, 1977, has had a very significant impact on our meetings, on our attendance, and on our ability to maintain the momentum of our outreach to students and faculty.

11. We have continued to meet, of course, but being off campus has had many unfortunate disadvantages:

a) One disadvantage is a loss of visibility and identity as a campus organization. In a real sense, we are no longer a "campus" organization, and it is difficult to interest other students in any activities which are off campus. Students know that if something is on campus, then it is a student organization, and they are more likely to feel comfortable attending a meeting.

b) Another disadvantage is increased confusion. Even though we have begun meeting in a house located only about a block and a half from the campus, students who are not familiar with where we are meeting are not as likely to go to an unfamiliar address on a residential street (Charlotte Street) as they would be to go to a regularly used and well-known campus building.

c) Another disadvantage is decreased comfort. Interested visitors are not encouraged to return by the crowded and uncomfortable conditions that exist at the meetings

on Charlotte Street. Not only is the house severely overcrowded, but the house is so constructed that probably no more than about forty percent of those in attendance can see the person speaking even when the speaker stands in the most observable position.

d) Another disadvantage is lack of convenience and efficiency. It is just not as convenient for students to go off campus as it takes more time out of their schedules.

e) Another disadvantage is the burden that it places upon those who host the meetings. We have been having roughly seventy-five people at our regular off-campus meetings.

f) Another disadvantage is that it makes our message and our purposes seem more remote and less relevant to the typical student. Having to explain that we have to meet off campus tends to make students think that there is something "wrong" with us and that there is something wrong with religion since it has been banished from the campus. This leads to the kind of thinking which holds that religion is obsolete and has nothing to do with the realities of life. This type of thinking is a large barrier to the effectiveness of our message and the purposes of our group.

g) In addition, and also as a result of the above stated factors, we have experienced a definite decrease in the attendance at our activities. We have continued to promote our activities and have continued our efforts to attract other students, but our attendance has been lower since we were forced off campus. We seem to have an average attendance of roughly seventy-five or so at our recent meetings since being forced off campus, and it would be physically impossible for us to accommodate many more than now attend. It would be impossible, for instance, to accommodate the one hundred and twenty-five we used to

have at some of our campus meetings on previous occasions when we were permitted to meet on campus.

/s/ Florian Frederick Chess

STATE OF MISSOURI)
COUNTY OF JACKSON) ss.

On this 29th day of September, 1977, before me, the undersigned notary public, personally appeared Florian Frederick Chess known to me, and, being first duly sworn, acknowledged that the signature to the foregoing document was his genuine signature and that he signed said document as his free act and deed.

/s/ James M. Smart, Jr.
Notary Public

My commission expires:
9/21/80

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

AFFIDAVIT OF JONATHAN WILLIAMS

Comes now Jonathan Williams, of lawful age, who, having been first duly sworn, deposes and upon his oath states as follows:

1. I am a student at the University of Missouri—Kansas City and I reside at 5532A Troost, Kansas City, Missouri. My telephone number is 444-6679. I am involved in the Cornerstone organization.

2. Our group has been prohibited from holding our regular meetings in university buildings since last February.

3. On about August 29, 1977, Tony Hallman, a friend of mine who is also involved in Cornerstone, and I went together to the University Buildings and Grounds office to see if it would be possible to have an informal Bible study for a small group of people (approximately twenty or so) on the lawn on the grounds of the university. We talked with a Mr. Hatch, the Chief of Buildings and Grounds.

4. After describing to Mr. Hatch why we had come, Mr. Hatch showed us the university regulation which prohibited the use of the university premises for "religious teaching" and "religious worship." Mr. Hatch then asked what we would do at these meetings, and I told him that we would read our Bibles and talk about things in the Bible. Mr. Hatch advised us that, in his view, the only way that we could be permitted to meet was if we presented all possible views of the Bible fairly, and not talk about just one view of the Bible. Although Mr. Hatch was pleasant and sympathetic, he was firm in his position. Mr. Hatch never inquired about the size of the group, nor did he give any other reason as to why we would not be permitted to meet on the grounds.

5. Since the regulation Mr. Hatch had cited mentioned that we could meet in a chapel if there were one, I inquired about the possibility that a chapel could be built. Mr. Hatch stated that if we wanted a chapel, we would have to "get the ball rolling" ourselves and that it would have to be funded by private donations.

6. Mr. Hatch then referred us to Mr. Clairborne Harper, Business Officer in the university administration, who we went to see that same day. We ended up seeing a Mr. Stan Dalen, Assistant Business Officer, instead. He in turn called Dean Gary Widmar, Dean of Students. Mr. Dalen then said that Dean Widmar suggested that we talk to Dr. Paul Parker, an administrator in charge of "Student Life."

7. We went to see Dr. Parker and explained to him why we had come. Dr. Parker stated that he could not give us permission to meet because of the university's policy about religious meetings, and he stated that he was surprised that Dean Widmar had suggested that we come to see him. He stated that, "until this thing is cleared up, I cannot approve your request."

8. I have also read the affidavit of Florian Frederick Chess dated Sept. 29, 1977 in regard to the impact of the prohibition on our campus ministry, and I find the things stated therein to be true and correct to the best of my knowledge and belief.

/s/ Jonathan Williams

STATE OF MISSOURI)
COUNTY OF JACKSON)

On this 29th day of September, 1977, before me, the undersigned notary public, personally appeared Jonathan Williams known to me, and, being first duly sworn, acknowledged that the signature to the foregoing document was his genuine signature and that he signed said document as his free act and deed.

/s/ James M. Smart, Jr.
Notary Public

My commission expires:
9/21/80

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

MOTION FOR CONSOLIDATION OF HEARING ON PRELIMINARY INJUNCTION WITH TRIAL ON MERITS, WITH SUGGESTIONS IN SUPPORT THEREOF

Come now plaintiffs herein and move the court for an order that the trial on the merits in this cause be advanced and consolidated with the hearing on plaintiffs' Motion for a Preliminary Injunction.

In support of this motion, plaintiffs state as follows:

1. A substantial part of the evidence offered on plaintiffs' said Motion for Preliminary Injunction will be relevant to the merits and will be presented in such form as to qualify for admission at the trial proper.

2. In addition, this is a case in which it is anticipated that the evidence as to the facts will not be contested as it appears that there will be no genuine issue as to any material facts. The matter may, in fact, perhaps be submitted to the Court by way of stipulation. Therefore, plaintiffs submit that consolidation of the proceedings will tend to expedite the final disposition of the action.

/s/ James M. Smart, Jr.
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(816) 842-4280

/s/ William H. Pickett
Pickett & Midkiff
Traders Bank Building
1125 Grand Avenue
Kansas City, Missouri 64106
(816) 471-4881

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

ANSWER TO COMPLAINT

Come now the Defendants herein and for answer to Plaintiffs' Complaint state that the Defendants and each of them:

1. Deny the allegations of paragraph 1 except that Defendants admit that Exhibit A to Complaint is a true copy of regulations adopted by the Board of Curators of the University of Missouri and that such regulations are in effect at this time.

2. Deny the allegations of paragraph 2.

3. Admit the allegations of paragraph 3.

4. Admit that the individual Plaintiffs are enrolled as students at the University of Missouri - Kansas City, but are without knowledge or information as to the other allegations contained in paragraph 4, and therefore deny such other allegations.

5. Admit the allegations of paragraph 5.

6. Admit that Defendant Board of Curators is an official body established by the State of Missouri for the government of the University of Missouri and that the office of the Board of Curators is located in Columbia, Missouri. The Defendants deny the other allegations contained in paragraph 6.

7. Admit the allegations of paragraph 7.

8. Deny the allegations contained in paragraph 8.

9. Admit that a request was received for the use of University facilities in early 1977 by or on behalf of a group known as Cornerstone and admit that such request was denied on the grounds

that the proposed use for religious purposes was in violation of the regulations of the University. Defendants deny the other allegations contained in paragraph 9.

10. Deny all allegations contained in paragraph 10.

11. Deny all allegations contained in paragraph 11.

12. Deny all allegations contained in paragraph 12.

13. Deny all allegations of Plaintiffs' Complaint not herein specifically admitted.

WHEREFORE, having fully answered, Defendants pray to be dismissed hence with their costs and reasonable attorney fees and for such other and further relief as to the Court shall seem meet and proper.

Respectfully submitted,

/s/ Jackson A. Wright
Marvin E. Wright
James S. Newberry
Ted D. Ayres
227 University Hall
Columbia, Missouri 65201

(Certificate of service omitted in printing)

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

STIPULATION OF FACT

Come now the parties herein by and through their respective attorneys, and, for the purpose of expediting the handling of this matter hereby stipulate and agree as follows:

1. Cornerstone is an officially recognized student organization at the campus of the University of Missouri - Kansas City (UMKC). UMKC is a part of the University of Missouri system which is governed by the Board of Curators of the University of Missouri, which is an official body established by the state constitution of Missouri for the government of the University and its affairs.

2. The individuals named as Plaintiffs were enrolled as students at UMKC at the time this action was commenced and were involved in Cornerstone. Plaintiffs Garrison, Aguirre, Colmer and Cyman are not presently enrolled as students at UMKC.

3. Under past and current policy of the University of Missouri, one of the benefits afforded recognized student organizations is the privilege of using the student center and certain other facilities of the University as a place in which to meet, subject to certain limitations as to time, place and conduct of the proposed meeting.

4. Each student enrolling at the University of Missouri - Kansas City pays a "Center Activities - Athletic Fee." This fee is $35.00 for all those enrolling for at least ten credit hours of instruction, and is something less for those taking fewer hours of instruction. The proceeds from the "Center Activities - Athletic Fee" go, in part, to fund the operation of the student center (referred to at many schools as a student union).

5. The regulations shown on the attached Exhibit A are presently in effect at UMKC and throughout all campuses of the University and have been in effect since sometime in 1972.

6. In early January, 1977, pursuant to established University procedures, Cornerstone applied for the privilege of using the University facilities for meetings by submitting through designated channels the document which is marked Exhibit B and attached hereto.

7. Said application of Cornerstone was rejected on or about February 4, 1977, because the University, after asking for clarification as to the activities to be conducted at the proposed meetings, concluded that the conduct of the proposed meetings would be in violation of said regulations (Exhibit A). In reaching such conclusions, the University relied primarily on the letter of one of Plaintiffs' attorneys as to the activities normally to be conducted at such meetings. A copy of the letter is attached hereto as Exhibit C.

8. As a result of said rejection of the application of Cornerstone to use University facilities, Cornerstone has not been permitted to use the University facilities as a place in which to hold meetings of the type described in Exhibit C since the date of the rejection of said application. In addition, Cornerstone has not been permitted to hold small group Bible studies on the University lawn or in other University facilities.

9. Although various religious groups, including Cornerstone, have been permitted to meet in the facilities of the University in the past, neither the Chancellor nor the Dean of Students of the University of Missouri - Kansas City have ever authorized a student organization to utilize a University facility for a meeting where they had full knowledge that the purposes of the meeting include religious worship or religious teaching.

10. The University has only one physical facility designated as a chapel and it is located on the Columbia campus of the University and was built and paid for totally by private donations and funds.

11. If Florian Frederick Chess were summoned to testify of his personal knowledge as to matters pertinent to the issues of this case, his testimony would be the same as the content of his affidavit dated September 29, 1977, and filed with the Motion for Preliminary Injunction in this case.

12. If Jonathan Williams were summoned to testify of his own personal knowledge as to matters pertinent to the issues of this case, his testimony would be the same as the content of his affidavit dated September 29, 1977, and filed with the Motion for Preliminary Injunction in this case.

IN WITNESS WHEREOF, the undersigned attorneys have hereunto set their hands this 13th day of April, 1978.

/s/ Marvin E. Wright
For: Jackson A. Wright
Marvin E. Wright
James S Newberry
Ted D. Ayres
227 University Hall
Columbia, Missouri 65201

/s/ James M. Smart
For: James M. Smart, Jr.
1134 Home Savings Bldg.
1006 Grand Avenue
Kansas City, Missouri 64106

and

William H. Pickett
Pickett & Midkiff
Trapers Bank Bldg.
1125 Grand Avenue
Kansas City, Missouri 64106

Attorneys for Defendants

Attorneys for Plaintiffs

Exhibit A

.0107 No University buildings or grounds (except chapels as herein provided) may be used for purposes of religious worship or religious teaching by either student or non-student groups. Student congregations of local churches or of recognized denominations or sects, although not technically recognized campus groups, may use the facilities, commonly referred to as the student union or center or commons under the same regulations that apply to recognized campus organizations, provided that no University facilities may be used for purposes of religious worship or religious teaching. The general prohibition against use of University buildings and grounds for religious worship or religious teaching is a policy required, in the opinion of The Board of Curators, by the Constitution and laws of the State and is not open to any other construction. No regulations shall be interpreted to forbid the offering of prayer or other appropriate recognition of religion at public functions held in University facilities. This provision does apply to such buildings as may be designated under provision of part .0106.

.0108 Regular chapels established on University grounds may be used for religious services but not for regular recurring services of any groups. Special rules and procedures shall be established for each such chapel by the Chancellor. It is specifically directed that no advantage shall be given to any religious group.

Exhibit B

REQUEST FOR USE OF UNIVERSITY FACILITIES
UNIVERSITY OF MISSOURI-KANSAS CITY

Name of Organization:
Cornerstone

Address:
5306 Charlotte

Authorized Representative:
Ron Barnes

Phone:
363-2619

Purpose of Organization:
Promote A Knowledge of Jesus Christ among Students

Name and Purpose of Event:
Saturday Night Mtg. - Educate Members

Name(s) of Speakers:
Bob Bury, Clint Hall

Name of Moderator:

Topic of Speakers:
Various Topics Relating to Christianity & the Bible

Facility Requested (Bldg.& Rm.):
Haag Hall Annex 103&113

Inclusive Dates:
1-15-77—5-77

Time Needed:
7:00—9:30 P.M.

Est. Attendance:
200

If sponsored or invited by Instructional or Admin. Unit of University, Give Name of Unit.

Unit Name:

Event will be Open to:
☐ Organization Only ☐ Students Only ☐Faculty & Staff Only
☒ General Public ☐ Other (Describe):

Will you Charge Admission?
☐ Yes ☒ No

Will Donations be Solicited?
☐ Yes ☒ No

Does the Organization Derive Financial Profit or Declare Dividends?
☐ Yes ☒ No

Applicant Signature:
/s/ Ron Barnes

UNIVERSITY AND STUDENT ORGANIZATIONS ONLY

Are University Funds to be Used?
☐ Yes ☒ No

If so, Give Account Name and Number:

Estimated Total Cost:

Amount of Speaker Fees:

OFFICIAL USE ONLY

Recognized Student Organization?
☐ Yes ☐ No

Normal Activities?
☐ Yes ☐ No

Non-Student Group-Sponsored or Invited?
☐ Yes ☐ No

Staff or Faculty Group Only?
☐ Yes ☐ No

Other Group (Describe):

Service Fee:

Use Fee:

No Fee (Comment on Exclusion): ☐

Building & Room Assigned:

Use Fee Contract Required?
☐ Yes ☐ No

Date of Contract:

COMMENTS:

Approved: (Sponsoring Unit)

Approved: (Student Activities)

Approved:

Approved:

Exhibit C

JAMES M. SMART, JR.
Attorney at Law
Bryant Building
1102 Grand Avenue
Kansas City, Missouri 64106

Area Code 816
842-4280

February 1, 1977

Mr. Gary E. Widmar
Dean of Students
University of Missouri - Kansas City
Kansas City, Missouri 64110

Re: Request of Cornerstone for
use of University Facilities

Dear Dean Widmar:

Thank you for meeting with my clients and me on January 20. You will recall that at that time we briefly discussed the request of Cornerstone for the use of university facilities, and I advised you that I would be submitting a legal memorandum supporting our view that the law prohibits the discriminatory banning of religious activities from university property.

Since you mentioned that you had been consulting with Mr. Marvin Wright of the University Counsel's office in regard to this question, I decided that I would address the legal memorandum to Mr. Wright and furnish you with a copy. But I also wish to take this opportunity to respond to your request for more information regarding the nature and purpose of the Cornerstone meetings.

Typical Cornerstone meetings in University facilities usually include the following:

1. The offering of prayer;
2. The singing of hymns in praise and thanksgiving;
3. The public reading of scripture;
4. The sharing of personal views and experiences (in relation to God) by various persons;
5. An exposition of, and commentary on, passages of the Bible by one or more persons for the purpose of teaching practical biblical principles; and
6. An invitation to the interested to meet for a personal discussion.

As you probably already know, these meetings are open to the public. Any students, be they Jewish, Christian, Moslem, or any other persuasion are invited, and, in fact, actively recruited by the students in Cornerstone.

Although these meetings would not appear to a casual observer to correspond precisely to a traditional worship service, there is no doubt that worship is an important part of the general atmosphere. There also is no doubt that the undecided and the uncommitted are encouraged and challenged to make a personal decision in favor of trusting in Jesus Christ both for salvation and for the power to live an abundant Christian life on earth.

There are no collections or solicitations of funds at these meetings, and there are no specific rituals or practices of any particular denomination or sect.

I assume that the foregoing information will be sufficient. If more is needed, please let me know and we will be happy to provide it for you. In the meantime, I am herewith resubmitting in behalf of Cornerstone the group's request for the use of University facilities.

In view of the recent Delaware decision enclosed with my letter to Mr. Wright, I do not feel the University could be criticized for allowing Cornerstone to continue to meet pending further clarification of the law. And I must point out that it is very important to my clients that they be able to continue to use University facilities, particularly in view of some special meetings planned during mid-February.

Thank you for your consideration.

Very truly yours,

James M. Smart, Jr.

JMS:js
Enclosure

cc: Mr. Marvin Wright

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

ORDER ON PRETRIAL CONFERENCE

At a conference held April 26, 1978, in the Court's chambers in Kansas City, Missouri, with counsel for the parties present the following agreements by the parties were made:

1. No evidentiary hearing will be required in this case and the case can be decided on the stipulation of fact and attached exhibits filed April 13, 1978;

2. At the direction of the Court, each party is to file a motion for summary judgment; and

3. Plaintiffs are to file a brief in support of their position on May 26, 1978. Defendants are to file their responsive brief on June 9, 1978, and plaintiffs will have until June 23, 1978, within which to file any reply.

If any of the agreements herein set out are not according to the recollection of the parties, they shall file written suggestions within ten days from this date.

/s/ William Collision
District Judge

Dated: April 27, 1978.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

SUPPLEMENTAL STIPULATION OF FACT

Come now the parties herein and, in order to expedite the disposition of this matter, further agree and specifically stipulate to the following items, subject to the reservation by the parties of the right to object to the admissibility of these stipulated items on grounds of lack of materiality and relevancy:

1. Exhibit 1 sets out the language appearing on page 35 of the booklet entitled "University of Missouri - Kansas City New Student Information 1978 - 1979." This booklet was published by UMKC to provide information to new students for the 1978 - 1979 school year.

2. Exhibit 2 is an accurate copy of a memorandum prepared for Gary Widmar, Dean of Students at UMKC by Paul J. Parker, Assistant Dean of Students, on January 30, 1978.

3. Exhibit 3 is an accurate copy of a document prepared by the UMKC business office reflecting the projected budget of the UMKC University Center for the 1977 - 1978 school year. The term "other income" in the column itemizing income received in connection with the University Center does not include monies from the Treasury of the State of Missouri.

4. Exhibit 4 shows the increase in student fees adopted by the Curators of the University of Missouri system, effective with the fall semester, 1978 - 1979.

5. Presently, the "Center - Activity - Athletic Fee" is $35.00 for a student carrying ten or more credit hours. Of that sum, the amount of $15.00 is allocated to the operation of the University

Center, $12.50 is allocated to the Student Activity budget, $5.00 is allocated to athletic programs, and $2.50 is allocated to physical facility development. Effective the fall semester of the 1978 - 1979 year the portion of the new $41.00 total fee allocated to the operation of the University Center will be $21.00.

IN WITNESS WHEREOF, the undersigned attorneys have hereunto set their hands this 1st day of June, 1978.

For: Jackson A. Wright
/s/ Marvin E. Wright
James S. Newberry
Ted D. Ayres
227 University Hall
Columbia, Missouri
65201

ATTORNEYS FOR
DEFENDANTS

For: /s/ James M. Smart, Jr.
1134 Home Savings
Building
1006 Grand Avenue
Kansas City, Missouri
64106

and

William H. Pickett
Pickett & Midkiff
Traders Bank Building
1125 Grand Avenue
Kansas City, Missouri
64106

ATTORNEYS FOR
PLAINTIFFS

Exhibit 1

Student Activities

The student activities program is coordinated by the STUDENT ACTIVITIES OFFICE located in the University Center. Through various student organizations, boards and committees, cultural, social, educational and recreational programming is provided. The aim is to make student free time activity, a cooperative aid to academic study.

In all its functions the student activities program encourages self-directed activity. This provides a great opportunity self-realization and individual growth while participating in programming for the entire student population or for a special interest group. The overall goal is to develop social and cultural awareness as well as intellectual curiosity. Students plan events and programs in such a way that they learn while working and find enjoyment at the same time.

In extracurricular affairs, students govern themselves in accordance with the All Student Association (ASA) constitution. The legislative body is the Student Council, a representative group of students elected annually by the student body. The ASA recommends funding and acts as an advocate of student rights.

Activities provide an excellent opportunity for all students to meet and work with the administration and faculty, as well as local community groups. Social and fiscal responsibility and leadership in our democratic society is a prime requirement for the educated individual. Student activities attempts to provide opportunity in these areas.

Most activities and the ASA offices are housed in the University Center which is dedicated to serving the social, co-curricular and cultural needs of UMKC. Student programs in the University Center often include lectures, symposia, concerts, discussions, receptions, chess and bridge tournaments, as well as many other

special events sponsored by the ASA and its programming division, the University Program Council.

Annual activities include the popular and foreign film series, various, campus orientation programs, Bum Friday, intramural athletic competition, Wilderness Outing Club, student government elections, Wallaby's Coffeehouse . . .

Exhibit 2

UNIVERSITY OF MISSOURI-KANSAS CITY
Office of Student Life
131 University Center
Kansas City, Missouri 64110
Telephone (816) 276-1407

January 30, 1978

Memorandum

TO: Gary Widmar
Dean of Students

FROM: Paul J. Parker
Assistant Dean of Students

Per your request, please find below a description of the Student Activity Fee Budget.

History of the Student Activity Fee

The present Student Activity had its origin in the Kansas City University days of the University of Missouri-Kansas City. Students voted in the Spring of 1953 to assess themselves and future students a $7.50 fee specifically for campus programming activities. This fee remained constant over 22 years while pro-

gramming costs (fees, printing, advertising, travel, etc.) and the need and demand for more programs increased geometrically.

In F.Y. 1974-75 the All Student Association and others realized that the reasonable and adequate funding of annual programs was in serious jeopardy, not to mention the outright cancellation of many new kinds of needed programs. Because of this realization, a $5.00 increase in the basic Student Activity fee was proposed and passed by the Board of Curators in June of 1975. Along with this increase a $2.50 Intercollegiate Sports and a $2.50 Physical Facility Development fee was also proposed and approved.

Presently, the total mandatory fee charged each full-time student, in addition to the Incidental Fee and/or other laboratory or special fees, is broken down as follows:

Allocation:	**Semester**	**Quarter**	**Summer**
Student Activity Fee			
Student Programming	12.50	8.95	6.25
Physical Facility Devel.	2.50	1.80	1.25

Allocation:	**Semester**	**Quarter**	**Summer**
Athletic	5.00	3.55	2.50
University Center	15.00	10.70	7.50
Total:	35.00	25.00	17.50

NOTE: For any other sessions and for partial enrollments, the above fees are calculated at the rate of $3.50 per credit hour or fraction thereof, except that there shall be a maximum fee as indicated above.

The Budgeting and Expenditure Process

Before the fees are collected, the All Student Association prepares a detailed line-item budget request for the coming fiscal year as well as evaluations of the previous year's programming activity. After the ASA Finance Committee and Student Council have reviewed and recommended budgets to the Dean of Students, the Dean's Advisory Committee (composed of faculty, students, and staff) review the budget proposals again and make recommendations to the Dean regarding these budgets. The Dean of Students forwards the thrice-reviewed budget to the Chancellor for inclusion as part of the total campus budget plan.

Throughout the fiscal year, the Office of Student Life staff exercises its program advising and budget control functions regarding these approved budgets, assuring that expenditures are in accord with University policy. Thus, from the conception of the ASA budgets to the execution of its spending plan, scrutiny is being exercised constantly at many levels.

Program Expenditures

The following illustration shows how the All Student Association allocated its funds for the last four fiscal years:

	1974-75	1975-76	1976-77	1977-78
School Councils	54,699	70,374	72,475	73,872
Campus Wide Programs	99,356	153,700	192,400	208,227
Special Interest Groups	4,500	11,250	13,190	14,150
Physical Facility	15,000	43,095	50,588	45,296
ASA General Operating	15,000	25,840	15,000	13,015
Total:	188,555	304,259	343,653	354,560

The Five Program Categories

Below is an explanation of the kinds and types of programs involved in each of the five major program categories:

School Councils — Programs sponsored by the nine school councils are primarily directed toward their own co-curricular and extra-curricular student life needs. In addition to sponsoring various academic, recreational, cultural, social and service functions for their constituencies, several of the school councils conduct symposia and workshops on a special topic of central concern. In order to meet their administrative or operating costs, school governments also have a program designed to cover the costs of mailings, purchases, communications, and salaries.

Campus Wide Programs — The Intramural Sports Program, Communiversity, the *University News,* the University Program Board, the Cultural and entertainment activities of the University Program Board and the Student Services Commission, all represent programs which have campus-wide appeal and interest. In general, these types of programs span the distance between school council programs and those of ethnic and/or special interest groups. Without this segment of student programming being active and creative, the campus' social, cultural, entertaining, and service needs would go unmet.

Special Interest Groups — Just as the University is responsive to the various educational needs of society, it must also be responsive to the various ethnic and non-academic special interest groups within the University. The University has officially recognized over 90 active student organizations, each with its specific area of interest. Ethnic organizations, such as Jewish College Students, United Mexican American Students, and The Afro-American Student Union, focus on the issues and concerns of their particular ethnic heritage. There are political organizations, such as Young Socialist Alliance, Women's Union, Young Democrats, and so forth. Also there is a broad spectrum of nonethnic special interest groups such as the Fencing Club and Bridge and Chess Club, the Karate Club, Mortar Board, Omicron Delta Kappa, etc. These groups are formed by students to provide another dimension to the student's life on campus - the extra and co-curricular experience.

Physical Facilities Development — The All Student Association and the University are cooperating in the joint venture of providing funds for badly needed recreational facilities. These funds will be available for tennis courts, outdoor handball courts, and other recreational facilities.

ASA Operating — The All Student Association is the central student governing body on campus. It has representatives from each of the academic school councils. Its powers are chiefly legislative and recommendatory. In order to accomplish its goals, a variety of administrative or operational expenses must be incurred and planned for next year. Such an operating program provides for the salaries of officers, correspondence, printing, elections, travel, office supplies, which are necessary for the operation of the central student government.

Please let me know if you require any additional information prior to our January 31st meeting on the Student Activity Fee Budget.

PJP/ggs

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title Omitted in Printing)

FIRST AMENDED COMPLAINT

Comes now plaintiffs herein and, pursuant to leave of court, for their amended complaint against defendants state as follows:

1. This action is brought pursuant to Title 28, United States Code, Section 2201, and Title 42, United States Code, Section 1983, for the purpose of having declared and adjudged unconstitutional, and to enjoin the enforcement of, certain regulations of the University of Missouri promulgated by the Board of Curators, to-wit: the regulations numbered 4.0314.0107 and 4.0314.0108, which prohibit the use of university facilities by students for purposes of either "religious teaching" or "religious worship." A copy of the exact language of these regulations is attached hereto as Exhibit A and made a part hereof by reference.

2. The jurisdiction of this Court is invoked pursuant to the provisions of Title 28, United States Code, Section 1343 (3), this being a suit in equity which is authorized by law, Title 42, United States Code, Section 1983, to be brought to redress the deprivation under color of state law of rights, privileges, and immunities secured by the Constitution and laws of the United States. The rights here sought to be redressed are rights guaranteed by the Free Exercise and the Freedom of Expression Clauses of the First Amendment, and by the Due Process and Equal Protection Clauses of the Fourteenth Amendment, to the Constitution of the United States, as hereinafter more fully appears.

3. Venue is proper in this judicial district pursuant to the provisions of Title 28, United States Code, Section 1391(b) in that this is a civil action wherein jurisdiction is not founded solely on diversity of citizenship; the claim arose in this judicial district; and defendant Dean Widmar resides, and defendant members of the Board of Curators maintain their office, in this district.

4. The plaintiffs are individual students enrolled at the University of Missouri—Kansas City (hereafter "UMKC") involved in a recognized student organization by the name of Cornerstone. Plaintiffs, as a group, seek enforcement of the right to use university facilities as a place in which to hold meetings for the religious purposes of the group.

5. Defendant Gary E. Widmar is the Dean of Students at UMKC, his office being located in Scofield Hall near 5100 Rockhill Road, Kansas City, Missouri.

6. The defendant Board of Curators is an official body established by the State of Missouri for the government of the University and its affairs. The office of the Board of Curators is located in Columbia, Missouri. Service of process upon the defendant Board of Curators may be obtained by serving a copy of the summons and petition upon the President of the Board of Curators, to-wit: Mr. Van Williams, President, National Bank in North Kansas City, 320 Armour Road, North Kansas City, Missouri.

7. Defendants Berkmeyer, Brenner, Dempster, Doak, Johnston, Olham, Stacey, Williams, and Williams are individual members of the Board of Curators, duly constituted pursuant to law.

8. Although student religious groups had been using the facilities of the University of Missouri, including the Student Union facilities, as a meeting place for meetings which included religious discussion, teaching, and prayer, for many years, the Board of Curators, acting under color of state law, promulgated the regulations set out in Exhibit A in 1972.

UNIVERSITY OF MISSOURI-KANSAS CITY UNIVERSITY CENTER

1977-78 Budget and Projected Budgets
Without a Fee Increase

	1977-78 Budget	1978-79 Projected	1979-80 Projected	1980-81 Projected
INCOME				
Food Service and Vending Income	$ 689,000	$ 745,625	$ 796,540	$ 853,700
Games Room Income	16,720	17,980	18,500	19,000
Other Income	14,500	15,500	16,000	17,000
Student Fee Income	285,000 (1)	272,000 (1)	277,440	282,900
Gross Income	$1,005,220	$ 1,051,105	$ 1,108,480	$ 1,172,600
EXPENSES				
Repair and Replacement	$ 59,100	$ 64,090	$ 68,580	$ 73,360
Food Costs	224,900	245,160	261,790	280,520
Salaries	190,462	203,795	218,060	233,325
Wages	305,804	323,560	346,210	370,445
Staff Benefits	53,806	57,860	62,210	66,890
Employee Meals	11,029	11,800	12,625	13,510
Travel	5,775	6,180	6,610	7,070
Communications	8,585	9,185	9,830	10,520
Rents and Trash Hauling	10,650	11,460	12,300	13,290
Utilities	(2)	113,820	124,710	138,450
Paper Supplies (Food Service)	16,125	17,255	18,460	19,750
Supplies (Office and Janitorial)	17,875	19,125	20,465	21,900
Insurance	1,800	1,925	2,060	2,205
Laundry	3,200	3,425	3,665	3,920
Miscellaneous	6,325	6,770	7,245	7,750
Physical Plant Administration	(2)	14,240	15,090	15,945
TOTAL EXPENSES	$ 915,436	$ 1,109,650	$ 1,189,910	$ 1,278,870
NET INCOME FROM CENTER OPERATIONS before Adjustments	$ 89,784	$ (58,545)	$ (81,430)	$ (106,270)
Adjustments to Income	$ (2)	$ 93,479	$ 89,022	$ 95,255
Institutional Use Charge				
Residence Hall Portion of Debt Service	27,117	42,000	42,000	42,000
SUB-TOTAL	$ 116,901	$ 76,934	$ 49,592	$ 30,985
1.35% Debt Service	(113,297)	(113,297)	(113,297)	(113,297)
ADJUSTED NET INCOME	$ 3,604	$ (36,363)	$ (63,705)	$ 82,312)

(1) $255,000 budgeted for 77-78 is known to be overstated. Actual should have been $278,000. Applying projected decrease (7%) in enrollment for 1978-79. $272.000 was used as a base for computing student fee income.

Exhibit 3

Exhibit 4

REGULAR SEMESTER

(16 week)

CREDIT HOUR	INCIDENTAL FEE	CENTER AND ACTIVITY FEES	NON-RESIDENT TUITION	TOTAL NON-RESIDENT	TOTAL RESIDENT
1	$ 38.50	$ 4.10	$------	$ 42.60	$ 42.60
2	77.00	8.20	------	85.20	85.20
3	115.50	12.30	------	127.80	127.80
4	154.00	16.40	------	170.40	170.40
5	192.50	20.50	------	213.00	213.00
6	231.00	24.60	------	255.60	255.60
7	269.50	28.70	(7) 198.00	(7) 496.20	298.20
8	308.00	32.80	(8) 396.00	(8) 736.80	340.80
9	339.00	36.90	(9) 508.00	(9) 883.90	375.90
10 or more	339.00	41.00	(10) 678.00	(10) 1058.00	380.00

These charges supersede all previous charges shown in University Bulletins and Catalogs.

Exhibit 4

3-9-78

9. On or about January 5, 1977, the students involved in Cornerstone submitted a Request for Use of University Facilities (UMKC Form No. 740) pursuant to established procedures of the University, requesting the use of facilities for their meetings during the semester. The facilities were desired as a place in which to hold meetings which usually include prayer and discussion of religious topics. The group had obtained permission to use such facilities, and had used them in this manner, in the past. In February, Cornerstone was advised, through the University Counsel's Office and defendant Dean Widmar, that such meetings could not be permitted in view of the fact that worship was "an important part of the general atmosphere of the meetings" and that such meetings would be in violation of university regulations.

10. The provisions of the said regulations pursuant to which the University has acted in denying the use of facilities to the plaintiffs are in violation of the Constitution and laws of the United States in the following respects:

A. The regulations place an impermissible and undue burden on the free exercise of religion and on the freedom of expression in violation of the First Amendment of the Constitution of the United States, as applied to the states through the Fourteenth Amendment, in that they fail to make a reasonable accommodation of the religious needs of the students by forcing the students to hold such meetings away from the grounds of the University. This, in effect, destroys any benefit derived by Cornerstone from being a recognized student organization, and thereby effectively nullifies the official recognition of the organization, and makes it extremely difficult for students interested in these activities to meet as a group.

B. The regulations in question constitute, under the circumstances here present, active hostility against and unlawful discrimination against religion, and an undue

burden on freedom of expression in violation of the First Amendment, as applied to the states through the Fourteenth Amendment to the Constitution of the United States, in that these regulations single out religious expression from among all other types of expression, and exclude such religious expression from the grounds of the University, while permitting students to gather for purposes of other types of expression. Such discrimination is unlawful in that there is no valid and compelling state interest being protected by the University in excluding such religious expression from the grounds of the University.

C. The regulations violate the freedom of expression provision of the First Amendment, as applied to the states through the Fourteenth Amendment, in that the enforcement of the regulations will tend to lead to unlawful censorship of the meetings of religious groups by the University in violation of the First and Fourteenth Amendments. Such censorship would tend to be employed by the University in the instances where the University seeks to determine whether or not elements of the "religious teaching" or "religious worship" are present at such meetings.

D. The regulations in question are impermissibly and unconstitutionally vague and overbroad in violation of the Fourteenth Amendment to the Constitution of the United States in the following particulars:

1. The regulations do not define "religious teaching," nor do they make clear when religious subjects may be discussed and when they may not; and

2. The regulations do not define "religious worship" nor do they explain why prayer, which is generally considered one form of "worship" is permitted, but "an atmosphere of worship" such as that occurring at the meetings of Cornerstone, is not permitted.

3. The language goes so far as to preclude a group from holding a meeting where worship is "an important part of the general atmosphere" even though the meeting is not essentially a "worship meeting"; and

4. The ban against "religious teaching" goes so far as to preclude the discussion of religion as it bears on such subjects as the origin of man, the nature of man, and the future of man, which subjects are an integral part of the questions which students, in the academic atmosphere of the University, are entitled to discuss, pursue, and even to attempt to persuade others to their point of view; and

5. The regulations go beyond the requirements of the Missouri Constitution related to separation of church and state, as well as beyond the requirements of the Establishment Clause of the First Amendment of the Constitution of the United States, in that these regulations go beyond dealing with state establishment of, aid to, and undue entanglement with, religion; and instead these regulations deal with the question of what private individuals may discuss and do among themselves, without the question of state aid or sponsorship being involved. Indeed, the language of the regulations as applied in this instance, even go so far as to preclude a particular mental attitude (an attitude of worship) from the grounds of the University.

E. The regulations in question are unduly arbitrary and capricious and therefore deny plaintiffs' equal protection of the law and deprive plaintiffs of liberty without due process of law, in violation of the Fourteenth Amendment to the Constitution of the United States, in that while it extends to student groups the right to use any chapels on the grounds of the University for religious purposes (although

on an irregular and limited basis), the University has failed, at the UMKC campus, to provide or designate any such chapel. Further, even if there were such a chapel on the grounds at UMKC, the relegation of religious teaching and religious worship to a chapel, as opposed to allowing these matters the same treatment as other types of expression, constitutes an unlawful discrimination against and an impermissible attitude of hostility against religion in violation of the First Amendment, as applied to the states through the Fourteenth Amendment of the Constitution of the United States, in that it classifies religion as something which, in the generally open academic atmosphere of a university, must be confined only to chapels.

The regulations in question further violate the Equal Protection Clause of the Fourteenth Amendment in that they unlawfully deny to plaintiffs equal access to a public forum. Although defendants allow student groups to meet on University grounds and in University facilities to pursue many different special interests, the defendants unlawfully discriminate against meetings containing elements of religious teaching or religious worship. Plaintiffs are thereby unlawfully and unconstitutionally denied equal access to the forum for the pursuit and advocacy of their special interest, while others, in contrast, are freely allowed to pursue their special interests without censorship or prohibition.

F. In addition to unlawfully interfering with the free exercise of religion, the regulations in question also violate the establishment provision of the First Amendment to the Constitution of the United States, as applied to the states through the Fourteenth Amendment, in that the heavy-handed banning from the campus of all those matters traditionally considered "religious" through the enforcement of these regulations has the effect on the campus of establishing and promoting a religion of secularism.

11. Defendant Board of Curators, by promulgating the said regulations under color of law, and the defendant Gary Widmar, by engaging in the enforcement, execution, and administration of the provisions of said regulations under color of law, have deprived and will continue to deprive, unless restrained, the plaintiffs and others similarly situated of their rights to freedom of expression and freedom of religion under the First Amendment, and the Equal Protection and Due Process Clauses of the Fourteenth Amendment of the Constitution of the United States.

12. The damage and injury done to the plaintiffs by reason of being deprived of the foregoing rights is continuing and irreparable, and there is no adequate remedy at law. Any other remedy to which plaintiffs could be referred would be attended by such uncertainties and delays as to deny substantial relief, cause further irreparable injury, and occasion damage, vexation, and inconvenience to the plaintiffs.

WHEREFORE, plaintiffs pray that this Court:

1. Issue a preliminary injunction directing the defendant Dean Gary E. Widmar to immediately approve the application of Cornerstone for the use of University facilities, and to give notification of such to Cornerstone through the undersigned attorney for plaintiffs, and further directing defendant Board of Curators of the University of Missouri, Dean Gary E. Widmar, and all other agents, officials, and employees of the University of Missouri to cease enforcing, administering, or in any manner giving effect to said regulations; and

2. Adjudge and declare said regulations to be in violation of the First and Fourteenth Amendments to the Constitution of the United States and therefore unconstitutional and void; and

3. Issue a permanent injunction restraining the Board of Curators and all officials, and agents, and employees of the University from enforcing, executing, administering or in any manner giving effect to said regulations; and

4. Grant plaintiffs the costs of this action, including reasonable attorneys fees, pursuant to Title 42, United States Code, Section 1988, and such other and further relief as may be just and equitable in the premises.

/s/ James M. Smart, Jr.
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1006 Grand Avenue
Kansas City, Missouri 64106
842-4280

/s/ William H. Pickett
Traders Bank Building
1125 Grand Avenue
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471-4881

Attorneys for Plaintiffs

(Certificate of Service omitted in printing)

Exhibit A

(University Regulations omitted in printing)

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

(Title omitted in printing)

ANSWER TO FIRST AMENDED COMPLAINT

Come now the Defendants herein and for answer to Plaintiffs' First Amended Complaint state that the Defendants and each of them:

1. Deny the allegations of paragraph 1 except that Defendants admit that Exhibit A to Complaint is a true copy of regulations adopted by the Board of Curators of the University of Missouri and that such regulations are in effect at this time.

2. Deny the allegations of paragraph 2.

3. Admit the allegations of paragraph 3.

4. Admit that the individual Plaintiffs are or were enrolled as students at the University of Missouri—Kansas City, but are without knowledge or information as to the other allegations contained in paragraph 4, and therefore deny such other allegations.

5. Admit the allegations of paragraph 5.

6. Admit that Defendant Board of Curators is an official body established by the State of Missouri for the government of the University of Missouri and that the office of the Board of Curators is located in Columbia, Missouri. The Defendants deny the other allegations contained in paragraph 6.

7. Admit the allegations of paragraph 7, except to advise that Curator Van Williams has resigned from said Board since the initiation of this suit.

8. Deny the allegations contained in paragraph 8.

9. Admit that a request was received for the use of University facilities in early 1977 by or on behalf of a group known as Cornerstone and admit that such request was denied on the grounds that the proposed use for religious purposes was in violation of the regulations of the University. Defendants deny the other allegations contained in paragraph 9.

10. Deny all allegations contained in paragraph 10.

11. Deny all allegations contained in paragraph 11.

12. Deny all allegations contained in paragraph 12.

13. Deny all allegations of Plaintiffs' Complaint not herein specifically admitted.

WHEREFORE, having fully answered, Defendants pray to be dismissed hence with their costs and reasonable attorney fees and for such other and further relief as to the Court shall seem meet and proper.

Respectfully submitted,

Jackson A. Wright
Marvin E. Wright
James S. Newberry
Ted D. Ayres
227 University Hall
Columbia, Missouri 65201

(Certificate of Service omitted in printing)